

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

URGENT

Memorandum

To: Members of the Council
From: Nyasha Smith, Secretary to the Council
Date: July 9, 2012
Subject: Proposed contract with Forrester Construction Company
(CA 19-387)

The attached proposed contract with Forrester Construction Company in the amount of \$6,837,819 for the Phase 1 Modernization of Nalle Elementary School was filed in the Office of the Secretary on July 6, 2012.

The Council's ten day review begins Monday, July 9, 2012, including Saturdays, Sundays, Council recess and legal holidays. The proposed contract will be deemed approved on Thursday, July 19, 2012, unless a resolution of approval or disapproval is introduced within the ten day review period, extending the review to 45 days.

INTRODUCED BY: Chairman Mendelson at the request of the Mayor

Retained by the Council with comments from the Committee on Government Operations and the Committee of the Whole.

Attachment

cc: General Counsel
Budget Director
Legislative Services



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OFFICIAL COPY
SPECIALTY

VINCENT C. GRAY
MAYOR

JUL 6 2012

The Honorable Phil Mendelson
Chair
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

**Reference: District of Columbia Department of General Services
Contract for Design-Build Services – Nalle Elementary School (DCAM-12-
M-1031G-FM)**

Dear Chairman Mendelson:

Pursuant to D.C. Official Code § 1-204.51(b), the Department of General Services (“DGS” or the “Department”) hereby submits the attached Contract for Design-Build Services for the Phase 1 Modernization of Nalle Elementary School (the “Contract”) to the Council of the District of Columbia for its review and approval.

As you are aware, the Master Facilities Plan (the “MFP”) for the District of Columbia Public Schools contemplates that elementary schools will be modernized in a phased approach over a period of years. The first phase of the modernizations will focus on the Academic Components of the schools—the classrooms, where students spend the majority of their time. Per the MFP, Nalle Elementary School is to undergo a Phase 1 modernization during FY 2012. The proposed Contract requires Forrester Construction Company (“Forrester”) to complete the Phase 1 modernization of Nalle Elementary School as well as selective upgrades to key areas such as hallways, bathrooms and entrance lobbies. The Contract further requires selective upgrades and/or reconfigurations to the Project School’s HVAC systems in order to meet the applicable performance requirements for the Academic Components, no later than August 12, 2012.

The Department previously engaged Waldon Studio Architects & Planners DC (the “Architect”) to serve as the architect for this project and to prepare design development documents for the modernization of Nalle Elementary School. The Contract establishes a Guaranteed Maximum Price of \$6,837,819 for the Phase 1 modernization and further assigns the Department’s agreement with the Architect to Forrester in order to create a design-build team to complete the

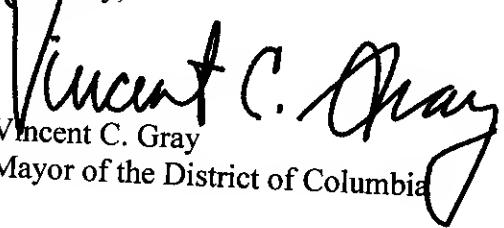
drawings and construct the project. The Department anticipates that construction activities will begin as school lets out for the summer holidays.

It should also be noted that this project has been placed in the Workforce Incentive Program. In total, we expect that at least thirty five percent (35%) of the total hours worked on this project will be performed by District residents. The trade subcontractors performing work on the Project will receive incentive payments based on the actual number of hours worked by District residents.

In addition to the Contract, attached are: (i) a contract summary; (ii) a fiscal certification; (iii) a memorandum of legal sufficiency; and (iv) tax clearance certificates for Forrester.

If you have any questions regarding this Contract, please feel free to contact either Brian J. Hanlon, the Department's Acting Director, or Scott Burrell, the Department's Chief Operating Officer.

Sincerely,


Vincent C. Gray
Mayor of the District of Columbia

Enclosures (5)

Copy: B. Hanlon
S. Burrell

Council Contract Summary

Pursuant to D.C. Official Code Sections 1-204.51(b) and 2-352.02, the Department of General Services (“DGS”) is pleased to provide the following contract summary to the Council of the District of Columbia (“Council”) in connection with DGS’ request for Council review and approval of the Contract for Design-Build Services for Nalle Elementary School:

(A) Name of the proposed contractor, the contract number, the contract amount and the term of the proposed contract:

Contractor:	Forrester Construction Company (“Forrester”)
Definitive Contract Amount:	The Contract has a guaranteed maximum price of \$6,837,819 and includes a Design-Build Fee of \$420,425
Contract Number:	DCAM-12-M-1031G-FM
Contract Term:	From date of approval to August 12, 2012 for Substantial Completion.
Contract Type:	Cost plus a Fixed Fee with Guarantee Maximum Price

(B) The goods and services to be provided, the methods of delivering goods and services, and any significant program changes reflected in the proposed contract:

The Master Facilities Plan for the District of Columbia Public Schools contemplates that elementary schools will be modernized in a three-phased project over multiple years. The first phase of the modernizations focuses on the Academic Components of the schools—the classrooms, where students spend the majority of their time. The second phase of the modernization effort will address Support Components, which may include bathrooms, art and music rooms, gymnasiums, and health suites. The final phase of the modernization will target the schools’ Systems Components, including HVAC systems, plumbing systems and fixtures, electrical systems, the buildings’ exterior envelopes, including roof and windows, as well as technology systems. Such work may include: (i) ensuring quality and natural daylight by replacing the windows and lighting systems and painting the walls to brighten the rooms; (ii) repairing or replacing the air conditioning and heating systems in the classrooms to ensure the room is comfortable in any season; (iii) wiring the classroom’s computers so that students and teachers can access online learning resources; (iv) acoustical reverberation and augmentation through acoustical materials and sound amplification and improved interior finishes; and (v) including teaching materials through interior design and upgrades to furniture, fixtures, and equipment.

Pursuant to the Department’s Capital Improvement Plan, the following eleven (11) schools are scheduled to undergo Phase 1 modernizations in fiscal year 2012: Amidon-Bowen ES; Brookland @ Bunker Hill EC; Bruce Monroe @ Parkview ES; Ketcham ES;

LaSalle-Backus EC; Leckie ES; Nalle ES; Powell ES; Ross ES; Simon ES; and Stuart Hobson MS. The Department previously engaged architects to prepare design development documents for the Phase 1 Work at these schools as well as selective upgrades key public areas such as hallways, bathrooms and entrance lobbies. Based on the design development documents, the Department has negotiated a definitive scope and price for the work to be implemented this summer.

Specific Services Required:

The proposed Contract requires Forrester to complete the Phase 1 modernization at Nalle Elementary School as well as to undertake certain other improvements that extend beyond the Academic Components, such as hallways, bathrooms and entrance lobbies, and selective upgrades and/or reconfigurations to the school's HVAC systems no later than August 12, 2012.

(C) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price and technical components:

On October 31, 2011, the Department issued a Request for Proposals ("RFP") to engage one or more design-builders to perform Phase 1 Classroom Modernizations at sixteen schools (the "Project").¹ The RFP was posted on the Department's website, advertised in the Washington Post, and sent by email or Federal Express to firms that our market research indicated were qualified to perform the work. A preproposal conference was held on November 9, 2011. On the proposal due date (i.e. November 22, 2011), fourteen (14) proposals were received in a timely manner: Turner Construction Company; Winmar-Dustin JV; Coakley & Williams; Centennial Contractors; FEI Construction; Broughton Construction Company; Forrester Construction; MCN Build; Kadcon Corporation; Benaka, Inc., Capital Construction Group; GCS, Inc.; Monarc Construction; and The Whiting-Turner Contracting Company. Each Offeror bid on at least one of the schools. Most of the Offerors proposed on all of the schools.

The proposals were evaluated by an evaluation panel consisting of Philip Artin, Will Mangrum and Eupert Braithwaite in accordance with the criteria set forth in the RFP. A 100 point scale was used with (i) experience and references worth 20 points; (ii) key personnel worth 20 points; (iii) project management plan worth 10 points; (iv) preliminary schedule worth 10 points (v) LSDBE compliance/utilization worth 5 points; (vi) Workforce utilization worth 5 points; and (vii) the cost worth 30 points. The evaluation panel met on December 15, 2011 to develop a consensus score.

Of the 30 points available for cost, 7 were allocated to the design fee, 3 were allocated to the preconstruction fee, and 20 were allocated to the design-build fee. The points were assigned on a sliding scale, with the lowest proposed price receiving all of the available

¹ The RFP solicited bid for sixteen schools, however, prior to award, it was determined that five of the schools would be deferred.

points, the highest receiving none, and remaining proposals receiving a portion of the available points relative to their position in the range established by the highest and lowest bids for each pricing component. Offeror 4 was deemed non-responsive for submitting price components well in excess of 150% of the median total price.²

The panel began its technical evaluation by ranking the Offerors according to the panel's overall assessment of the Offerors' proposals, taking into consideration each of the technical factors (experience; key personnel; management plan; schedule; LSDBE plan; and workforce utilization plan). The following Offerors were at the top of the panel's list: Offeror 14 ranked first, with the panel noting the firm's extensive school experience and that Offeror 14 has successfully met the Department's on-time and on-budget goals in prior projects. The panel ranked Forrester second noting the firm's impressive personal coverage on past DGS projects. The panel ranked Offeror 1 third given their vast DCPS school experience in general, and in particular, their past Phase 1 modernization work. Overall, these top technical scorers were within one point of each other with respect to technical score.

Offeror 3 was ranked fourth. The panel noted the firm's solid school experience and well thought out management plan. In fifth place, the panel placed Offeror 8, noting the firm's prior success on Phase 1 projects. Similarly, the panel next ranked Offeror 5 based on its prior completion of Phase 1 modernization work. In seventh place, the panel ranked Offeror 11 noting its recent success on Jefferson MS and UDC Building 52. The eighth highest scoring technical firm, Offeror 12, has performed many projects for the Department, of various scopes and sizes, and has consistently delivered. And in ninth place, the panel noted that Offeror 6 has completed prior Phase 1 modernization work, though was somewhat challenged by the Department's on-time and on-budget goals. This group of Offerors scored within a nine point technical range.

Finally, in the lowest scoring tier of technical Offerors, the panel ranked Offeror 9 in tenth place. Offeror 9 has performed a number of specialty projects, including mainly parks and fields, for the Department, but has no prior Phase 1 modernization experience. Next, in eleventh rank, the panel noted that Offeror 2, while having much school experience, has been recently challenged in managing the design efforts as a design-builder, and in meeting the Department's on-time and on-budget goals at Janney ES. In twelfth place, the panel noted that while Offeror 13 has local renovation experience, little of it was in schools. Offeror 13's proposal was also weak in addressing the design management process, and Offeror 13's schedule showed construction beginning prior to the end of the school year. The panel last ranked Offeror 10, noting that Offeror 10's submission was lacking in several areas. The panel noted that Offeror 10 planned for work to begin in April (even though school is in session), failed to address value

² Offeror 10 confirmed that the design fees it submitted reflected only the costs of Offeror 10's management of the design services and review of design documents; it did not include any architect/engineering fees which should also have been included. Rather than deeming Offeror 10 non-responsive, the average design fee for each school was added to Offeror 10's fee for design management for purposes for the price scoring calculations.

engineering or managing the design process, and demonstrated no experience with the District's CBE goals. Most of the Offeror's experience appeared to be in ID/IQ type contracts. Overall, the panel was not confident that these Offerors would be able to complete the projects which have particularly aggressive schedules and determined that it would be difficult to award to an Offeror from this lowest scoring tier.

The panel's technical review of each of the proposals was combined with the price scores. In addition to the price and technical scoring, a possible twelve (12) additional points were available for each Offeror based on its status as a Certified Business Enterprise as determined by the Department of Small and Local Business Development. Seven of the Offerors was so certified and received additional points accordingly. The attached tables summarize the results of the panel's consensus evaluations, including technical evaluation, the price submitted by the Offerors, and the CBE points for each certified Offeror.

Prior to making any awards, the panel considered whether an Offeror should be awarded more than one school. The panel determined that given the compressed timeline for the Phase 1 work, and in order to minimize the risk of any particular project not succeeding, the panel elected to award no more than two (2) schools to any one contractor and determined that if a contractor was to be awarded two schools that they should be two of the smaller projects in terms of their dollar volume. Based on this determinate and the panel's technical assessment of each of the Offerors, the panel recommended awards.

In awarding Nalle, the panel elected to award this school to the highest scoring Offeror who had not yet been awarded a school; as the first three highest scoring Offerors – Offerors 6, 5, and 12 – had each already been awarded a school, the panel elected to award to the fourth highest scoring Offeror, Forrester. Again, the panel noted that this project, with budget in excess of \$8 million, was more challenging than some of the other project schools and particularly suited for this high technical scoring Offeror.

(D) Background and qualifications of the proposed contractor including its organization, financial stability, personnel, and prior performance on contracts with the District Government:

Forrester was established in 1988 and employs a staff of 250 individuals. In 2011, Forrester was ranked 152 among the top contractors in the country by Engineering News Records. Forrester has successfully completed DGS/OPEFM projects including the Phase 1 modernization of Hart Middle School last year as well as Addison Elementary School and Walker Jones School & Library. Forrester is currently working on the modernization of Anacostia SHS. DGS reviewed the proposed staffing plan and determined that the proposed staffing level was adequate to manage the work required under this contract and that the proposed staff had the requisite experience to discharge their proposed duties.

(E) Performance Measures Standards and expected outcomes of the proposed contract:

Forrester is required to provide all design services, management, personnel, labor, materials and equipment necessary to complete the school portion of the Project no later than August 12, 2012. If the Project is complete on-time and on-budget, Forrester will receive a Design-Build Fee of \$462,467.50. If one or both of these goals are not met, Forrester's Design-Build Fee will be \$378,382.50. In addition, if Forrester achieves the Workforce Utilization Requirement, it will receive an additional \$21,021.25 in Design-Build Fee.

(F) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with sections 47-392.01 and 47-392.02:

The Office of the Chief Financial Officer has certified that the proposed guaranteed maximum price of \$6,837,819 is within the appropriated capital budget authority for the agency in fiscal year 2012 and is consistent with the financial plans and capital budget adopted in accordance with §§47-392.00 and 47-392.02.

(G) A certification of that the proposed contract is legally sufficient and has been reviewed by the Office of the General Counsel, Office of the Attorney General, including whether the proposed contractor has any legal claims against the District:

The proposed contract has been deemed legally sufficient, and the proposed contractor does not appear to have any pending legal claims against the District.

(H) A certification that the proposed contract is current with its District and federal taxes or has worked out and is current with a payment schedule approved by the District or federal government:

The Office of Tax and Revenue and the Department of Employment Services' Unemployment Insurance Tax Division have certified that Forrester is in compliance with the Government of the District of Columbia tax laws and regulations (see attached certifications).

(I) Status of Proposed Contractor:

Forrester is not certified as a Local, Small, or Disadvantaged Business Enterprise by the District's Department of Small and Local Business Development ("DSLBD"), and has certified that it will award 50% of the subcontract work to Certified Business Enterprises of which 35% will be awarded to small or disadvantaged business enterprises.

(J) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:

All significant aspects of the proposed contract have been provided.

(K) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and reasons for debarment:

Forrester is not debarred from providing services to the Government of the District of Columbia or the Federal Government according to the Office of Contracts & Procurement's Excluded Parties List and the Federal Government's Excluded Parties List.

(L) Where the contract, if executed, will be made available online:

The contract, if approved, will be posted on the Department of General Services web site.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES
Office of Unemployment Compensation/Tax Division



REVISED

TAX VERIFICATION RESPONSE - DOES

CONTRACT SPECIALIST: Tia Mercer

AGENCY: DGS

VENDOR NAME: FORRESTER CONSTRUCTION COMPANY

D.C.DOES SUI ACCOUNT #: 159356 FEDERAL ID #: 521587647

TO BE COMPLETED BY THE DEPARTMENT OF EMPLOYMENT SERVICES TAX DIVISION
THE DEPARTMENT OF EMPLOYMENT SERVICES CERTIFIES THAT:

The prospective Contractor is "IN COMPLIANCE" with the tax filing and payment requirements of the District of Columbia Unemployment Tax Laws or is in compliance with an established payment plan.

The prospective Contractor is "NOT IN COMPLIANCE" with the tax filing and payment requirements of the District of Columbia Unemployment Tax Laws. The Contractor may obtain details of the tax deficiency and make arrangements to correct this deficiency by contacting the tax enforcement officer whose name and telephone number follow:

Tax Enforcement Officer: Doris Artis

Phone #: (202) 698-5122

Comments

SIGNATURE

6/15/2012

DATE

UI Tax Officer

(202)-698-3564

TITLE

TELEPHONE/FAX NUMBER

This response/certification is valid for 90 days from the date specified above.

ATT: Compliance Officer

Office of Unemployment Compensation - Tax Division - 4058 Minnesota Avenue, NE, Washington, DC 20019

For more information, please go to the DOES Web Site at <http://www.does.dc.gov/>

Tax Verification Response - DOES

DISTRICT OF COLUMBIA

Office of Tax and Revenue
941 North Capitol Street, N.E., 5th Floor
Collection Division
Washington, DC 20002



OFFICE OF TAX AND REVENUE TAX VERIFICATION RESPONSE

REQUESTOR: TIA MERCER

AGENCY: DGS

VENDOR NAME: FORRESTER CONSTRUCTION COMPANY

FEIN: 52-1587647

TO BE COMPLETED BY THE OFFICE OF TAX & REVENUE

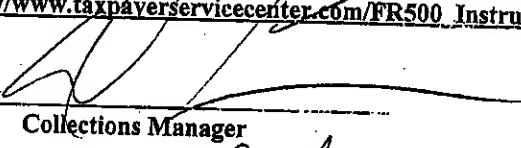
The prospective contractor is in compliance with the filing and payment requirements of the District of Columbia Tax laws.

The prospective contractor/individual is not liable for the tax filing requirements of the District of Columbia.

The prospective contractor is not in compliance with the tax filing and payment requirements of the District of Columbia Tax Law. The contractor may obtain details of the tax deficiency and make arrangements to correct this by contacting the Revenue Officer whose signature appears below.

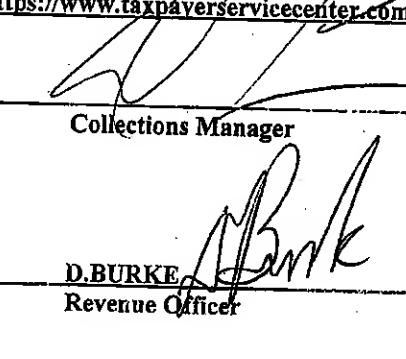
The prospective contractor has recently been registered with the District of Columbia and has not incurred any liabilities so far.

Our records indicate that the prospective contractor is not registered to do business in the District of Columbia. Please contact the Office of Tax and Revenue, Customer Service Office at (202) 727-4829 to request a form FR-500 (Combined Registration Application) which must be fully completed and submitted to the address indicated on the form *Office of Tax and Revenue, PO Box 470 Washington, DC 20044-0470* or register online at: https://www.taxpayerservicecenter.com/FR500_Instructions.jsp. DCRL-2012-0026


Collections Manager

06/08/2012

Date


D.BURKE
Revenue Officer

(202) 442-7057
Telephone Number

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



Memorandum

To: Brian J. Hanlon
Acting Director

From: Massimo Marchiori 
Agency Fiscal Officer

Reference: Contract for Design-Build Services – Nalle Elementary School
(DCAM-12-M-1031G-FM)

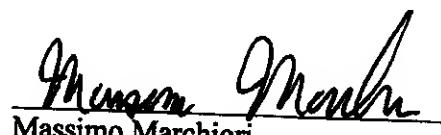
Date: June 29, 2012

Subject: Fiscal Sufficiency Review

In my capacity as the Agency Fiscal Officer of the Department of General Services (the "Department"), I hereby provide financial certification for the Contract for Design-Build Services for Nalle Elementary School (DCAM-12-M-1031G-FM), with Forrester Construction Company in the amount of \$6,837,819.

The Department of General Services has \$6,837,819 in its FY 2012 Cumulative Capital Budget Balance. The funding Attributes are attached/below.

Project Name	Project Number	Fund Detail	AY	Implementing AGY	Owner AGY	Funding Year	Reg/PC	Amount	Comments
NALLE ES MODERNIZATION/R ENOVATION	YY150C	0300	2008	AM0	GA0	FY2012	N/A	6,837,819.00	See Attached
Total								6,837,819.00	


Massimo Marchiori
Agency Fiscal Officer
Department of General Services
6-29-12

S061 V2.1 PRD DISTRICT OF COLUMBIA R*STARS 2.1 06/29/12 03:12 PM

LINK TO: AGENCY BUDGET FINANCIAL INQUIRY DSNF

AGENCY: AM0 AY: 08 ORG CODE: PGM CODE: FUNC CODE:

AP FUND: FUND: 0300 GRANT/PH: PROJECT/PH: YY150C

COMP SRC/GRP: OBJ/COBJ/AGY OBJ: AGY OBJ GROUP:

ORG LEVEL:

PGM LEVEL:

FUNC LEVEL:

INQ TYPE: MC (MA, YA, MY, YY, MC, YC) DETAIL/SUMMARY: S

INQ YEAR: 12 INQ MONTH: 09 ADJUSTED BUDG: 18,352,000.00

BUDGET AVAIL: 17,224,112.81 BUDG % AVAIL: 93.85

EXPEND/BUDG %: 2.67 ALLOT/BUDG %: 51.50

ALLOTMENT BAL: 8,403,442.31 UNEXPND ALLOT: 8,961,739.77

BT TITLE	AMOUNT	BT TITLE	AMOUNT
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09 ORIG EXP BU	14,500,000.00	24 BUDGET ALLO	9,452,000.00
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10 EXP BUD REV	3,852,000.00
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15 CASH EXPEND	490,260.23
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17 ACCRUED EXP	.00
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18 ENCUMB OUTS	558,297.46
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19 PRE-ENCUM O	79,329.50
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F1-HELP F2-DOC INQ F5-NEXT F9-INTERRUPT ENTER-INQUIRE CLEAR-EXIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



Memorandum

To: Brian J. Hanlon
Acting Director

From: Charles Brown, Esq.
Deputy General Counsel

Reference: Contract for Design-Build Services – Nalle Elementary School
(DCAM-12-M-1031G-FM)

Date: July 2, 2012

Subject: Legal Sufficiency Review

I have reviewed the final form of the Contract for Design-Build Services for Nalle Elementary School (DCAM-12-M-1031G-FM) between the Department of General Services and Forrester Construction Company (the “Contract”), and I hereby certify that the Contract appears legally sufficient. Please be advised that my finding that the Contract appears legally sufficient is premised on the Contract being submitted to and approved by the Council of the District of Columbia as required by Section 1-204.51(b) of the District of Columbia Official Code.